

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

Douglas Dodson, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Case No. 3:17-cv-00048
	)	District Judge Eli J. Richardson
	)	Magistrate Judge Jeffery S. Frensley
	)	Jury Trial Demanded
v.	)	
	)	
CoreCivic, formerly d/b/a Corrections	)	
Corporation of America; Tenn. Dept.	)	
of Correction, Tony Parker, Commissioner,	)	
	)	
Defendants.	)	

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**TENNESSEE DEPARTMENT OF CORRECTION AND  
COMMISSIONER TONY PARKER’S MOTION TO DISMISS**

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Defendants, Tennessee Department of Correction (“TDOC”) and Commissioner Tony Parker, move for dismissal of this case as follows:

Plaintiffs bring the instant claim of failure to accommodate and discrimination under Title II of the Americans with Disabilities Act (“ADA”) and section 504 of the Rehabilitation Act against the TDOC and defendant Tony Parker. However, the plaintiffs have failed to establish a *prima facie* case of discrimination pursuant to Title II of the ADA and section 504 of the Rehabilitation Act. Specifically, where a plaintiff brings a complaint pursuant to Title II of the ADA or the Rehabilitation Act regarding inadequate medical treatment, the plaintiff must show that he was denied treatment *because of* his disability, not despite his disability.

The plaintiffs have failed to establish a *prima facie* Title II ADA claim or Rehabilitation Act claim because they have not established the defendants are acting in an exclusionary manner *because of* the plaintiffs’ diabetes. Further, plaintiffs assert that the lack of adequate medical care

is due to underfunding and undertraining, in an effort to maximize profit, not due to specific animus towards inmates with diabetes.

Because the plaintiffs have failed to establish a prima facie Title II ADA claim or Rehabilitation Act, the defendants respectfully request that the plaintiffs' claims against them be dismissed.

Respectfully submitted,

HERBERT H. SLATERY III  
Attorney General and Reporter

/s/ Jennifer L. Brenner

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### **CERTIFICATE OF SERVICE**

I hereby certify that a full and complete copy of the foregoing Motion to Dismiss was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt on this the 15<sup>th</sup> day of January, 2019, including the following:

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